United States District Court Southern District of Texas

ENTERED

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION January 16, 2019 David J. Bradley, Clerk

UNITED STATES OF AMERICA, and STATE OF TEXAS,	5 5 5
Plaintiffs,	8 8 3
and	§ §
BAYOU CITY WATERKEEPER,	S CIVIL ACTION NO. H-18-3368 S
Plaintiff-Intervenor,	§ JUDGE EWING WERLEIN, JR. §
v.	§ §
CITY OF HOUSTON, Defendant.	§ §
BAYOU CITY WATERKEEPER,	§ §
Plaintiff,	§ CIVIL ACTION NO. H-18-3369
v.	§ JUDGE ANDREW S. HANEN
CITY OF HOUSTON,	S S
Defendant.	§

ORDER DENYING CONSOLIDATION

Plaintiff-Intervenor Bayou City Waterkeeper moves to consolidate this case with its citizen suit pending before Judge Hanen in Civil Action No. H-18-3369. Plaintiffs United States of America and State of Texas, and Defendant City of Houston oppose consolidation, arguing that consolidation would frustrate the

¹ Document No. 22.

impending settlement of the first-filed suit and that Bayou City's citizen suit is barred by 33 U.S.C. § 1365(b)(1)(B), which argument is the basis of the City's motions to dismiss pending in that suit.² In their most recent joint report, the United States, the State of Texas, and the City of Houston indicate that "the negotiating teams have reached agreement or near agreement on all major provisions of a proposed comprehensive compliance plan or injunctive relief package," and that they "expect to reach or come very close to reaching a proposed final settlement" within forty-five days of the December 21, 2018 status report.³

Given the parties' progress in nearing a comprehensive settlement, which the Court prefers not to be delayed by needless complications, and considering that the motions to dismiss pending before Judge Hanen in the citizen suit will, if granted, moot the motion to consolidate, it is presently in the interest of efficiency and the administration of justice not to consolidate the cases. Accordingly, it is

² Document Nos. 24, 26.

³ Document No. 23 at 5, 11.

ORDERED that Plaintiff-Intervenor Bayou City Waterkeeper's Opposed Motion to Consolidate (Document No. 22) is DENIED.

The Clerk will enter this Order, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 6 day of January, 2019.

TATES DISTRICT JUDGE